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11  
12 IN THE UNITED STATES DISTRICT COURT  
13  
14 FOR THE DISTRICT OF NEVADA

15 NAPLES POLARIS, LLC, a Nevada limited  
16 liability company,

17 Case No.: 3:13-cv-00511-RCJ-VPC

18 Plaintiff,

19 v.

20 VAL PETERSON, an individual; EUGENE  
21 CLEVELAND CANEPA, an individual; and  
22 WESTERN PROPERTIES OF NEVADA, LLC, a  
23 Nevada limited liability company; UNITED  
24 STATES DEPARTMENT OF THE TREASURY,  
INTERNAL REVENUE SERVICE;

25 **PLAINTIFF'S MOTION FOR  
DISCHARGE AND DISMISSAL WITH  
PREJUDICE**

26 Defendants.

27 Plaintiff Naples Polaris, LLC ("Naples Polaris"), through its attorneys, Holland & Hart  
28 LLP, hereby moves this Court to be dismissed from this action with prejudice. This Motion is  
based on the following:

29 1. On September 8, 2008, the United States Bankruptcy Court for the District of  
30 Nevada entered an order approving a settlement in the French Quarter bankruptcy case, Case  
31 No. 07-51126. The Bankruptcy Court's order confirms a settlement agreement fully executed  
32 and filed with the Court on August 27, 2008 ("Settlement Agreement").

33 2. Pursuant to the Settlement Agreement, Naples Polaris agreed to pursue certain  
34 claims assigned to it by the Trustee against third-parties, subject to an obligation and  
35 reservation in favor of Western Properties of Nevada, LLC in the amount of the first  
36 \$300,000.00 of recovery, net of related fees and costs.

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1       3. Naples Polaris ultimately obtained a recovery against the third-parties and seeks  
2 to fully discharge its obligations with respect to the reserved \$300,000.00 amount as set forth in  
3 the Settlement Agreement.

4       4. Naples Polaris filed its Complaint for Interpleader on September 17, 2013  
5 seeking a determination by the Court as to the proper legal payee for the \$300,000.00 (the  
6 “Funds”).

7       5. Naples Polaris deposited the Funds with the Clerk of the Court. [Doc. 3]

8       6. Naples Polaris believes Western Properties of Nevada, LLC to be the proper  
9 entity entitled to Funds. However, there have been conflicting claims to the Funds and/or  
10 circumstances exist which may put the Defendants in the position of asserting an interest in the  
11 Funds.

12       7. As explained in more detail in its Complaint for Interpleader, Val Peterson,  
13 Eugene Cleveland Canepa, Western Properties of Nevada, LLC, and the United States  
14 Department of the Treasury, Internal Revenue Service may have an interest in the Funds. *See*  
15 Complaint. [Doc. 1]

16       8. Naples Polaris filed its Complaint for Interpleader so that the claimants can  
17 resolve their conflicting claims to the Funds, and so that Naples Polaris will not be  
18 exposed to multiple liabilities with respect to the distribution of the Funds.

19       9. All Defendants have been served with a copy of the Summons and Complaint  
20 for Interpleader. [Docs. 12-15]

21       10. Pursuant to 28 USC §2361, this Court may discharge Naples Polaris from  
22 further liability in interpleader actions such as this one.

23       11. In depositing the Funds with this Court and serving Defendants with the  
24 Complaint, Naples Polaris has fully complied with its obligations to reserve and pay the  
25 \$300,000.00 as set forth in the Settlement Agreement and therefore seeks to be discharged from  
26 all further liability whatsoever to any of the Defendants or any other claimants with respect to  
27 the Funds.

28       ///

12. Upon discharge from this case, Naples Polaris will waive its rights to seek attorney's fees and costs related to this interpleader action and will not be submitting any application for award of the same.

13. Accordingly, Naples Polaris' participation in this matter is not necessary and Naples Polaris seeks to be discharged from further liability pursuant to 28 USC §2361.

WHEREFORE, Naples Polaris requests the Court order:

1. That by depositing the Funds with this Court, Naples Polaris is discharged from its obligations pursuant of the Settlement Agreement and in accordance with 28 USC §2361, from all liability to any and all parties and/or other actual or potential claimants with respect to the Funds;

2. Defendants are enjoined and restrained from instituting any action or proceeding in any state or United States court against Naples Polaris relating to the Funds; and

3. That Naples Polaris is dismissed with prejudice from this action.

DATED this 22nd day of January 2014

HOLLAND & HART, LLP

/s/ Tamara Reid

Timothy A. Lukas, Esq.

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Attorneys for Plaintiff

*Attorneys for Naples Polaris, LLC*

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**PROOF OF SERVICE**

I, Cynthia L. Kelb, declare:

I am employed in the City of Reno, County of Washoe, State of Nevada by the law offices of Holland & Hart LLP. My business address is 5441 Kietzke Lane, Second Floor, Reno, Nevada 89511. I am over the age of 18 years and not a party to this action.

On January 22, 2014, I electronically filed the foregoing **PLAINTIFF'S MOTION FOR DISCHARGE AND DISMISSAL WITH PREJUDICE**, with the Clerk of the United States District Court, via the Court's e-filing system.

I certify that the participants in the case are registered e-filing users and that service will be accomplished by e-filing to the following e-filing participants:

<p>10 Del Hardy, Esq.  Stephanie Rice, Esq.  Richard A. Salvatore, Esq.  11 Hardy Law Group  96 &amp; 98 Winter Street  Reno, Nevada 89503  <u>del@hardylawgroup.com</u>  <u>stephanie@hardylawgroup.com</u>  <u>rsalvatore@hardylawgroup.com</u>  12 Facsimile: 775-322-2303</p> <p>13</p> <p>14</p> <p>15 Attorneys for Interpleader-Defendants,  Eugene Cleveland Canepa and Western  Properties of Nevada, LLC</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Kathryn Keneally, Assistant Attorney General  Virginia Cronan Lowe, Esq.  Trial Attorneys, Tax Division  Daniel Bogden, Of Counsel, U.S. Attorney  U.S. Department of Justice  Post Office Box 301  Ben Franklin Station  Washington, D.C. 20044-0683  <u>virginiacronan.lowe@usdoj.gov</u>  Facsimile: 202-307-0054</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
	<p>Gregory W. Addington, Esq.  U.S. Attorney's Office  100 West Liberty Street, Suite 600  Reno, Nevada 89501  <u>greg.addington@usdoj.gov</u>  Facsimile: 775-784-5181</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
	<p>Attorneys for the United States of America,  United States Department of the Treasury,  Internal Revenue Service</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>John L. Arrascada, Esq.  Arrascada &amp; Aramini, Ltd.  145 Ryland Street  Reno, Nevada 89501  <u>jla@arrascadalaw.com</u>  Facimile: 775-329-1253</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	
<p>Attorneys for Parties-in-Interest Oscar  Renteria, Denise Renteria and the  Renteria Family Trust</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	

1                    I certify that some of the participants in the case are not registered e-filing users and on  
 2 the 22nd day of January 2014, I served a true and correct copy of the foregoing **PLAINTIFF'S**  
 3 **MOTION FOR DISCHARGE AND DISMISSAL WITH PREJUDICE**, by depositing  
 4 same in the United States mail, first class postage fully prepaid to the persons and addresses  
 listed below:

5                   John D. Hanover, Esq.  
 6 Peckar & Abramson  
 7 1875 Century Park East, Suite 550  
 Los Angeles, CA 90067  
[jhanover@pecklaw.com](mailto:jhanover@pecklaw.com)  
 8 Facsimile: 310-228-1076

9                   Attorneys for Defendant Val Peterson

10                  I declare under penalty of perjury under the laws of the United States of America that the  
 11 foregoing is true and correct, and that this declaration was executed on January 22, 2014.

12                  \_\_\_\_\_  
 13                  /s/ Cynthia L. Kelb  
 14                  Cynthia L. Kelb

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